

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE AUGUST 17, 2015

AMENDED IN ASSEMBLY MAY 6, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 517**

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**Introduced by Assembly Member Gallagher**

February 23, 2015

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An act to amend Section 51938 of the Education Code, relating to sexual health education.

LEGISLATIVE COUNSEL'S DIGEST

AB 517, as amended, Gallagher. The California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act: educational materials.

~~Existing~~

(1) *Existing* law, the California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act, authorizes school districts to provide comprehensive sexual health education, consisting of age-appropriate instruction, in any of kindergarten and grades 1 to 12, inclusive, and requires school districts to ensure that all pupils in grades 7 to 12, inclusive, receive HIV/AIDS prevention education, as specified. Existing law requires each school district to notify parents and guardians about its plan to provide this instruction for the upcoming year and to inform them, among other things, that written and audiovisual educational materials used in this instruction are available for inspection and of the name of the organization or affiliation of any guest speaker.

This bill would require a school district to ~~provide a parent or guardian with ample time~~ *allow a pupil's parent or guardian* to inspect any written or audiovisual educational material used in comprehensive sexual health education and HIV/AIDS prevention education and would authorize a parent or guardian to make copies of any written educational material that will be distributed to students, if it is not copyrighted and has been or will be presented by an outside consultant or guest speaker. The bill would authorize a school to charge up to \$0.10 per page if a parent or guardian elects to make copies of this written educational material. The bill would also require a school district to inform parents and guardians of their right to make these copies and of the training in comprehensive sexual health education and HIV/AIDS prevention education of each outside consultant or guest speaker providing this instruction. Because the bill would require local educational agencies to perform additional duties, the bill would impose a state-mandated local program.

*(2) This bill would incorporate additional changes to Section 51938 of the Education Code proposed by AB 329 that would become operative if this bill and AB 329 are both enacted and this bill is enacted last.*

~~The~~

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 51938 of the Education Code is amended
- 2 to read:
- 3 51938. A parent or guardian of a pupil has the right to excuse
- 4 his or her child from all or part of comprehensive sexual health
- 5 education, HIV/AIDS prevention education, and assessments
- 6 related to that education, as follows:

(a) At the beginning of each school year, or, for a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil's enrollment, each school district shall notify the parent or guardian of each pupil about instruction in comprehensive sexual health education and HIV/AIDS prevention education and research on pupil health behaviors and risks planned for the coming year. The notice shall do all of the following:

(1) Advise the parent or guardian that written and audiovisual educational materials used in comprehensive sexual health education and HIV/AIDS prevention education are available for inspection and that during this inspection a parent or guardian may make copies at the parent's or guardian's pupil's school of any written educational material that will be distributed to ~~students~~, *pupils*, if it is not copyrighted and has been or will be presented by an outside consultant or guest speaker.

(2) Advise the parent or guardian whether the comprehensive sexual health education or HIV/AIDS prevention education will be taught by school district personnel or by outside consultants. A school district may provide comprehensive sexual health education or HIV/AIDS prevention education, to be taught by outside consultants, or may hold an assembly to deliver comprehensive sexual health education or HIV/AIDS prevention education by guest speakers, but if the school district elects to provide comprehensive sexual health education or HIV/AIDS prevention education in either of these manners, the notice shall include the date of the instruction, the name of the organization or affiliation of each outside consultant and guest speaker, the training in comprehensive sexual health education and HIV/AIDS prevention education of each outside consultant and guest speaker, and information stating the right of the parent or guardian to request a copy of this section, Section 51933, and Section 51934. If arrangements for this instruction are made after the beginning of the school year, notice shall be made by mail or another commonly used method of notification, no fewer than 14 days before the instruction is delivered.

(3) Include information explaining the parent's or guardian's right to request a copy of this chapter.

(4) Advise the parent or guardian that the parent or guardian may request in writing that his or her child not receive

1 comprehensive sexual health education or HIV/AIDS prevention  
2 education.

3 (b) A school district shall ~~provide a parent or guardian, upon~~  
4 ~~request, ample time~~ allow a pupil's parent or guardian to inspect  
5 any written or audiovisual educational material used in  
6 comprehensive sexual health education and HIV/AIDS prevention  
7 education. A parent or guardian may, during inspection, make  
8 copies at the parent's or guardian's pupil's school of any written  
9 educational material that will be distributed to ~~students,~~ pupils, if  
10 it is not copyrighted and has been or will be presented by an outside  
11 consultant or guest speaker. If a parent or guardian elects to make  
12 copies, the school may charge up to ten cents (\$0.10) per page.

13 (c) Notwithstanding Section 51513, anonymous, voluntary, and  
14 confidential research and evaluation tools to measure pupils' health  
15 behaviors and risks, including tests, questionnaires, and surveys  
16 containing age-appropriate questions about the pupil's attitudes  
17 concerning or practices relating to sex may be administered to any  
18 pupil in grades 7 to 12, inclusive, if the parent or guardian is  
19 notified in writing that this test, questionnaire, or survey is to be  
20 administered and the pupil's parent or guardian is given the  
21 opportunity to review the test, questionnaire, or survey and to  
22 request in writing that his or her child not participate.

23 (d) The use of outside consultants or guest speakers as described  
24 in paragraph (2) of subdivision (a) is within the discretion of the  
25 school district.

26 *SEC. 1.5. Section 51938 of the Education Code is amended to*  
27 *read:*

28 51938. (a) A parent or guardian of a pupil has the right to  
29 excuse ~~their~~ his or her child from all or part of comprehensive  
30 sexual health education, ~~HIV/AIDS~~ HIV prevention education,  
31 and assessments related to that ~~education, as follows:~~ education  
32 through a passive consent ("opt-out") process. A school district  
33 shall not require active parental consent ("opt-in") for  
34 comprehensive sexual health education and HIV prevention  
35 education.

36 (a)

37 (b) At the beginning of each school year, or, for a pupil who  
38 enrolls in a school after the beginning of the school year, at the  
39 time of that pupil's enrollment, each school district shall notify  
40 the parent or guardian of each pupil about instruction in

1 comprehensive sexual health education and ~~HIV/AIDS~~ HIV  
2 prevention education and research on pupil health behaviors and  
3 risks planned for the coming year. The notice shall do all of the  
4 following:

5 (1) Advise the parent or guardian that written and audiovisual  
6 educational materials used in comprehensive sexual health  
7 education and ~~HIV/AIDS~~ HIV prevention education are available  
8 ~~for inspection.~~ *inspection and that during this inspection a parent*  
9 *or guardian may make copies at the parent's or guardian's pupil's*  
10 *school of any written educational material that will be distributed*  
11 *to pupils, if it is not copyrighted and has been or will be presented*  
12 *by an outside consultant or guest speaker.*

13 (2) Advise the parent or guardian whether the comprehensive  
14 sexual health education or ~~HIV/AIDS~~ HIV prevention education  
15 will be taught by school district personnel or by outside consultants.  
16 A school district may provide comprehensive sexual health  
17 education or ~~HIV/AIDS~~ HIV prevention education, to be taught  
18 by outside consultants, ~~and~~ *or* may hold an assembly to deliver  
19 comprehensive sexual health education or ~~HIV/AIDS~~ HIV  
20 prevention education by guest speakers, but if ~~it~~ *the school district*  
21 *elects to provide comprehensive sexual health education or*  
22 *HIV/AIDS HIV prevention education in either of these manners,*  
23 *the notice shall include the date of the instruction, the name of the*  
24 *organization or affiliation of each* ~~guest speaker, and outside~~  
25 *consultant and guest speaker, the training in comprehensive sexual*  
26 *health education and HIV prevention education of each outside*  
27 *consultant and guest speaker, and* information stating the right of  
28 the parent or guardian to request a copy of this section, Section  
29 51933, and Section 51934. If arrangements for this instruction are  
30 made after the beginning of the school year, notice shall be made  
31 by mail or another commonly used method of notification, no  
32 fewer than 14 days before the instruction is delivered.

33 (3) Include information explaining the parent's or guardian's  
34 right to request a copy of this chapter.

35 (4) Advise the parent or guardian that the parent or guardian  
36 ~~may request in writing that his or her child not receive~~ *has the*  
37 *right to excuse their child from comprehensive sexual health*  
38 *education or HIV/AIDS prevention education and HIV prevention*  
39 *education and that in order to excuse their child they must state*  
40 *their request in writing to the school district.*

(c) A school district shall allow a pupil's parent or guardian to inspect any written or audiovisual educational material used in comprehensive sexual health education and HIV prevention education. A parent or guardian may, during inspection, make copies at the parent's or guardian's pupil's school of any written educational material that will be distributed to pupils, if it is not copyrighted and has been or will be presented by an outside consultant or guest speaker. If a parent or guardian elects to make copies, the school may charge up to ten cents (\$0.10) per page.

~~(b)~~  
(d) Notwithstanding Section 51513, anonymous, voluntary, and confidential research and evaluation tools to measure pupils' health behaviors and risks, including tests, questionnaires, and surveys containing age-appropriate questions about the pupil's attitudes concerning or practices relating to ~~sex~~ sex, may be administered to any pupil in grades 7 to 12, inclusive, if the parent or guardian is notified in writing that this test, questionnaire, or survey is to be administered and the pupil's parent or guardian is given the opportunity to review the test, questionnaire, or survey and to request in writing that his or her child not participate inclusive. A parent or guardian has the right to excuse their child from the test, questionnaire, or survey through a passive consent ("opt-out") process. A school district shall not require active parental consent ("opt-in") for these tests, questionnaires, or surveys in grades 7 to 12, inclusive. Parents or guardians shall be notified in writing that this test, questionnaire, or survey is to be administered, given the opportunity to review the test, questionnaire, or survey if they wish, notified of their right to excuse their child from the test, questionnaire, or survey, and informed that in order to excuse their child they must state their request in writing to the school district.

~~(e)~~  
(e) The use of outside consultants or guest speakers as described in paragraph (2) of subdivision (b) is within the discretion of the school district.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 51938 of the Education Code proposed by both this bill and Assembly Bill 329. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 51938 of the Education Code,

1 *and (3) this bill is enacted after Assembly Bill 329, in which case*  
2 *Section 1 of this bill shall not become operative.*

3 ~~SEC. 2.~~

4 SEC. 3. No reimbursement is required by this act pursuant to  
5 Section 6 of Article XIII B of the California Constitution for certain  
6 costs that may be incurred by a local agency or school district  
7 because, in that regard, a local agency or school district has the  
8 authority to levy service charges, fees, or assessments that may be  
9 sufficient to pay for the program or level of service mandated by  
10 this act, within the meaning of Section 17556 of the Government  
11 Code.

12 However, if the Commission on State Mandates determines that  
13 this act contains other costs mandated by the state, reimbursement  
14 to local agencies and school districts for those costs shall be made  
15 pursuant to Part 7 (commencing with Section 17500) of Division  
16 4 of Title 2 of the Government Code.